

Remarks:

Response to Restriction without Traverse

This Response is to the Official Communication dated March 10, 2009. Claims 9-11, 23-25, and 33-43 were pending and were made subject of a restriction requirement. Under 35 U.S.C. 121, in the Office Action on page 2, paragraph 1, the Examiner identified:

Group 1 claims 9–11 and 23-25 as drawn to a perceptible apparatus classified in 607/88.

Group 2 claims 33–43 as drawn to a method of using a perceptible apparatus classified in 128/898.

Further in Group 2, the Examiner identified the following species;

Species 1 a method of creating a desired effect in claims 33-37 and 42

Species 2 a method of creating a desired effect in a crystal in claim 38

Species 3 a method of calibrating in claims 39-40

Species 4 a method of replicating in claim 41

Species 5 a method of biofeedback in claim 43

Applicant accepts the restriction requirement with respect to Groups 1 and 2, and Species 1-5 above as being patentably distinct groupings.

Applicant elects to pursue Group 2 / Species 3 above relating to claims 39-40 that result in the following claim amendments;

Claims 9-11, 23-25, 33-38, and 41-43 are cancelled, wherein claims 39 and 40 remain as originally filed.

Application No. 10/596,376

Applicant respectfully requests that a timely notice of allowance be issued in this case.

Respectfully submitted,

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